

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES R. FISHER, JR.,

Plaintiff,

-against-

9:13-CV-0213 (LEK/TWD)

FAY JENKS; *et al.*,

Defendants.

ORDER

This matter comes before the Court following a Report-Recommendation filed on January 9, 2014, by the Honorable Thérèse Wiley Dancks, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 17 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). “If no objections are filed . . . reviewing courts should review a report and recommendation for clear error.” Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); see also Cephias v. Nash, 328 F.3d 98, 107 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Farid v. Bouey, 554 F. Supp. 2d 301, 306 (N.D.N.Y. 2008).

No objections to the Report-Recommendation were filed in the allotted time period. After a thorough review of the Report-Recommendation and the record, the Court has determined that the Report-Recommendation is not subject to attack for clear error or manifest injustice.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 17) is **APPROVED** and **ADOPTED in its entirety**; and it is further

ORDERED, that Defendants' Motion (Dkt. No. 12) to dismiss is **GRANTED in part**; and it is further

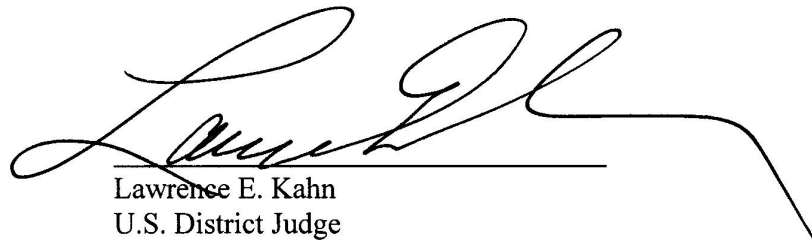
ORDERED, that Plaintiff's Eighth Amendment claim is **DISMISSED with prejudice**; and it is further

ORDERED, that Defendants respond to Plaintiff's Fourth Amendment excessive force claim in accordance with the Federal Rules of Civil Procedure and the Local Rules; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order upon the parties to this action.

IT IS SO ORDERED.

DATED: February 20, 2014
Albany, New York



Lawrence E. Kahn
U.S. District Judge